

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, OCTOBER 4, 2000**

A. ROLL CALL

The Regular City Council meeting of October 4, 2000 was called to order by Mayor Mann at 7:02 p.m.

Present: Council Members – Hitchcock, Land, Nakanishi, Pennino and Mayor Mann

Absent: None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

B. INVOCATION

The invocation was given by Natalie Reyes, representative of the Baha'i.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Girl Scouts Tierra del Oro Color Guard.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-2 (a) Mayor Mann presented a proclamation to City Clerk Blackston proclaiming the week of October 2 – 10, 2000 as "Voter Registration Week" in the City of Lodi.

City Clerk Blackston announced that Voter Registration Week is a non-partisan program sponsored by the Secretary of State's Office designed to make registration materials available to all Californians during the last week of registration. She reported that in the 1998 election, Lodi experienced a 62.8% voter turnout. The City Clerk's Office is participating in Voter Registration Week by setting up election displays in various locations in the City. Ms. Blackston reported on election related deadlines and urged all voters to exercise their right to vote on Election Day.

D-2 (b) Mayor Mann presented a proclamation to Melinda Sparks, Community Committee Chairperson with the San Joaquin County Women's Center, proclaiming the month of October 2000 as "Domestic Violence Awareness Month" in the City of Lodi.

Melinda Sparks described the Silent Witness Project, which includes 17 life-size silhouettes representing women who once lived in San Joaquin County whose lives ended due to domestic violence. She thanked the Lodi Police Department for sharing information about the Women's Center to women living in abusive situations.

D-2 (c) Mayor Mann presented a proclamation to David Marshall, President of the American Cancer Society, Lodi Unit, proclaiming the month of October 2000 as "National Breast Cancer Awareness Month" in the City of Lodi.

David Marshall reported that breast cancer is the second major cause of death in women, exceeded only by lung cancer. Early detection is the best opportunity to reduce that mortality rate.

Breast cancer survivor Jean Miller emphasized the importance of self-breast examinations and regular mammograms.

D-3 (a) Mayor Mann presented a Certificate of Recognition to Recreation Supervisor Lisa Rudloff for her participation as a Softball Umpire in the 2000 Summer Olympics in Sydney, Australia.

Lisa Rudloff announced that she served as one of 12 softball officials at the 27th Olympiad, which included 11,000 athletes and was represented by 199 nations. She expressed appreciation and noted that the City has always been supportive of her personal and professional achievements.

Parks Program Specialist Grant Plath reported that a free Salmon festival will be held at Lodi Lake next week and will include a 5K run, salmon barbecue, children's village, and will be attended by native Americans.

- D-1 (a) Mayor Mann presented a Certificate of Recognition to Mark Naughton, property owner of 301 E. Oak Street, in recognition of his work in rehabilitating a blighted property.

Joseph Wood stated that the Community Improvement Award is being given to Mark Naughton for bringing property up to code that had been vacant and in poor condition. Margaret Stern accepted the award in Mr. Naughton's absence.

- D-3 (b) Jennifer Walth, member of the Lodi Arts Commission, updated the City Council on the following activities and accomplishments of the Arts Commission:

- The Senior Follies last Sunday was a great success with 400 in attendance, 21 acts, and 16 performers;
- An Italian cooking class, which will include wine, Italian singing, and opera will take place on October 14;
- A production of the Secret Garden will be held October 27 to 29; and
- Children's productions of *Pinocchio* and *A Charlie Brown Christmas* will be held in November and December.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Nakanishi second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

- E-1 Claims were approved in the amount of \$3,424,099.11.
- E-2 The minutes of September 5, 2000 (Shirtsleeve Session), September 6, 2000 (Regular Meeting), September 12, 2000 (Shirtsleeve Session), September 12, 2000 (Special Meeting), and September 19, 2000 (Shirtsleeve Session) were approved as written.
- E-3 "Adopt resolution approving the Annual Investment Policy and Internal Control Guidelines" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar as H-6.**
- E-4 Adopted Resolution No. 2000-176 authorizing the retention of Delta Microfilm in the amount of \$7,000 to film City of Lodi Disbursement Claims and approving the destruction of records once filming is complete.
- E-5 Took the following actions with regard to the Richards Ranch and Thayer Ranch developments:
- Approved the final maps for Richards Ranch, Tract No. 2636, and Thayer Ranch, Tract No. 2850, and directed the City Manager and City Clerk to execute the Improvement Agreement and maps on behalf of the City.
 - Appropriated funds for applicable fee credits.
 - Appropriated funds for reimbursement for the cost of street frontage improvements fronting Lodi Unified School District (LUSD) property adjacent to the Richards Ranch and Thayer Ranch developments in conformance with the Agreement between the City and LUSD executed July 20, 2000.
 - Adopted Resolution No. 2000-177 amending Traffic Resolution 97-148 approving two-way stop control on Schaffer Drive at Bluejay Way (Richards Ranch) and on Melby Drive at Culbertson Drive (Thayer Ranch).

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- E-6 Adopted Resolution No. 2000-178 approving Program Supplement No. 040-M to Administering Agency-State Agreement 10-5154 for the Kettleman Lane (Highway 12) and Crescent Avenue Traffic Signal/Median Project and authorizing the Public Works Director to sign the supplement.
- E-7 "Adopt resolution authorizing the Public Works Director to accept and sign the Master Agreement entitled, 'Administering Agency-State Agreement for Federal Aid Projects' for all Program Supplements to Administering Agency-State Agreement No. 10-5154, updated June 4, 1997, Procedures for Federal Aid Funding of City of Lodi Transportation Projects" was ***removed from the Consent Calendar and discussed and acted upon under the Regular Calendar as H-7.***
- E-8 "Authorize City Manager to execute a professional services agreement with West Yost & Associates for engineering services to assess component failure modes and effects analysis for the White Slough Water Pollution Control Facility; and appropriate \$25,600 for the project" was ***removed from the Consent Calendar and discussed and acted upon under the Regular Calendar as H-8.***
- E-9 "Authorize City Manager to execute a professional services agreement with West Yost & Associates for engineering services to perform pilot testing to determine the feasibility of percolation treatment/disposal of effluent; and appropriate \$113,500 for the project" was ***pulled from the agenda pursuant to staff's request.***
- E-10 "Extend Exclusive Right to Negotiate Agreement with ProStyle Sports" was ***removed from the Consent Calendar and discussed and acted upon under the Regular Calendar as H-4.***
- E-11 "Accept Downtown Lodi Business Partnership (DLBP) 2001 Annual Report and Budget" was ***pulled from the agenda pursuant to staff's request.***
- E-12 "Creation of Swimming Pool Task Force" was ***removed from the Consent Calendar and discussed and acted upon under the Regular Calendar as H-5.***
- E-13 Adopted Resolution No. 2000-179 awarding the contract for the installation of streetlights on Avena and Orange Avenues and Cardinal, Park and York Streets to the low bidder, Steiny and Company, in the amount of \$92,447.80.

F. PUBLIC HEARINGS

- F-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Mann called for the Public Hearing to consider Adult Oriented Business Regulatory Ordinance.

City Attorney Hays briefly described each of the eight articles in the proposed adult oriented business regulatory ordinance.

HEARING OPENED TO THE PUBLIC:

- a) Rev. Dale Edwards, 1724 Camphor Way, Lodi, stated that adult oriented businesses promote violence against women and contribute to pandemic health issues faced by our communities. It is the responsibility of government to protect and promote moral values of society. The Council has a responsibility to lay the groundwork for the City in upholding moral excellence. Rev. Edwards stated that his congregation of several hundred people want to live in a city that has moral values. He urged the Council to vote in favor of the ordinance.

- b) Ken Owen, Director of Christian Community Concerns, Lodi, thanked the Council for taking the initiative in addressing adult oriented businesses in Lodi. He thanked the City Attorney, noting that he had been working on drafting the ordinance since April 1999. He stated that pornography destroys lives and families; is a major contributor to the moral decay of communities; is progressive and addictive in nature; often falls into the hands of children; encourages rape; and is linked to organized crime. Secondary effects of these types of businesses are blight, illegal activity, lowering of property values, and health and safety issues. He thanked the Mayor and Council for being the "watchmen on the wall and the keepers of the gate" by maintaining the standard of morality that the citizens of Lodi have elected them to do.
- c) Timothy Kruppe, representing Adult Pleasure World and Intimates of California, 122 W. Oak Street, Lodi, stated that he does not believe government should be regulating the morals and values of society. In reference to comments made by previous speakers he responded that rape is violence against women, it is not a sex issue and has nothing to do with the adult industry. His property value has not decreased. Mr. Kruppe stated that the Labor Board has determined that his employees, whom he thought were independent contractors, are in fact considered employees. He asked whether the ordinance requirement for them to get licenses would change their status to independent contractors. He spoke in support of freedom of choice and the right to privacy.
- d) Charlene Batchelar, 1951 Scarborough Drive, #17, Lodi, stated that if individuals are comfortable with their sexuality, it is not degrading. She pointed out that if the employees are required to get licenses, they would be able to do private shows and bachelor parties, which they currently are not allowed to do. She stated that if there are problems with decreased property values it is due to gangs and racial problems and is unrelated to the adult businesses.
- e) Paul Marchese, 266 E. Banbury Drive, Stockton, facetiously suggested that background checks be done on the customers of adult businesses as well. He spoke in support of adult oriented businesses, noting that they serve a positive purpose by providing material to improve marital relations.
- f) Rev. Randall Dotson, 19328 Page Court, Woodbridge, stated that this type of industry overloads the health system, and police and fire departments. He urged the Council to vote in favor of the ordinance.
- g) Steve Newman, 311 River Meadows, Woodbridge, commended the Council for taking action on this issue. He stated that the ordinance does not remove adult businesses or eliminate the opportunities people have. It regulates the kinds of activities that would lend themselves to pimping and prostitution and to sexual activity taking place in the stores, which become a health threat and a threat to the community.
- h) Roselyn Hensley, 835 W. Harney Lane, Lodi, spoke in support of her son (Timothy Kruppe) and stated that he was taught morals at home. He attended a Christian school and was at the top of his class throughout high school. She stated that the property value of Intimates has increased over the three years it has been in operation in an industrial area of the city. She thanked everyone for their cooperation and support.
- i) Charles Ackel, 801 N. Stockton Street, Lodi, declared that the real reason for the ordinance is to try to apply restrictions on an activity (that would otherwise be legal) because it is unpopular. Religious leaders have tried to convince the Council to regulate by innuendo. He stated that anything that restricts anyone's freedom, goes against the spirit of the constitution, and is wrong.

- j) George Mull, attorney representing Mr. Kruppe, 1012 38th Street, Sacramento, stated that there are a few difficulties with the ordinance from a first amendment point of view, as well as issues related to licensing, that should be addressed by staff before the Council approves it. There should be further review of findings that are required to support the ordinance.

Mayor Mann asked the City Attorney whether the ordinance is defensible and if he thoroughly addressed first amendment issues. City Attorney Hays replied in the affirmative and recommended that the ordinance be introduced.

- k) Steve Jarrett, 2681 Douglas Fir Drive, Lodi, urged the Council to move forward and enact the ordinance. He commented that it is what the community expects of the Council.

PUBLIC PORTION OF HEARING CLOSED

MOTION:

Council Member Land made a motion, Pennino second, to introduce Ordinance No. 1696 entitled, "An Ordinance Of The City Council Of The City Of Lodi Repealing And Reenacting Chapter 5.40 Of The Lodi Municipal Code In Its Entirety Relating To The Regulation Of Adult-Oriented Businesses".

DISCUSSION:

Council Member Pennino stated that elected officials have an obligation to set some of the standards for the morals in the community, and to be the "watchdogs" for the City. He pointed out that massage therapists and taxi drivers are also required to get background checks.

Mayor Pro Tempore Nakanishi expressed his opinion that adult oriented businesses are detrimental to families and children. He cited findings by the 1985 Attorney General's commission on pornography who concluded that pornography is not healthy for communities. A Danish study found that rapes increased after the legalization of pornography. In reference to the first amendment, he stated that people have the right to free speech, but not speech that harms.

Council Member Hitchcock announced that she visited Mr. Kruppe's businesses yesterday and explained that she did so because she did not feel comfortable passing legislation that effects businesses in which she had not seen for herself. She did not witness any criminal activity or prostitution; however, she commented that the businesses, in her opinion, offered no social redeeming value. Statistical research and the impact that the industry has on society, particularly on women, must be considered. Often when laws are passed it takes away someone's rights, but this must be weighed against the common good. For this reason, Ms. Hitchcock expressed support of the ordinance.

Mayor Mann emphasized that this is not a personal issue with Mr. Kruppe, but rather it is directed at the industry in general. The City Council has no greater calling than to represent and protect the health and safety of the community. He stated that this industry is a "scourge on society" and believed that most of the citizens of Lodi shared his opinion. The ordinance is a reflection of the community's values.

VOTE:

The above motion carried unanimously.

G. COMMUNICATIONS

G-1 On recommendation of the City's contract administrator, Insurance Consulting Associates, Inc. (ICA), and Human Resources staff, the City Council, on motion of Council Member Land, Pennino second, unanimously rejected the following claim:

a) Carol Tewksbury, date of loss 7/7/00

G-2 City Clerk Blackston read the following ABC License:

a) California Wine Education Foundation, Discover Lodi Wine and Visitors' Center, 2545 W. Turner Road, Lodi, On-Sale Beer and Wine, Original License

G-3 Reports: Boards/Commissions/Task Forces/Committees – None

G-4 Appointments

a) The City Council, on motion of Council Member Hitchcock, Pennino second, unanimously made the following appointments to various boards and commissions:

Gang Alternative Project

Virginia Siler Unspecified Term

Lodi Arts Commission

Donna Jean Phillips Term to expire July 1, 2003

Lodi Senior Citizens Commission

Winona Ellwein Term to expire December 31, 2001

G-5 Miscellaneous – None

RECESS

At 8:25 p.m., Mayor Mann called for a recess and the City Council meeting reconvened at 8:45 p.m.

H. REGULAR CALENDAR

H-1 "Presentation of proposed Lodi Area Veterans Plaza"

Cynthia Haynes, Assistant to the City Manager, introduced Tim Mattheis and announced that he will be giving a presentation on his proposed design concept for the Lodi Area All Military Veterans Plaza.

Tim Mattheis described his design concept for the memorial mall using a PowerPoint presentation and commented that several public meetings have already been held regarding the plaza. The current veterans mall area was dedicated in 1968. His proposal included objects that he stated will catch the eye from passersby on the street and evoke strong emotional responses. These four objects include: 1) an obelisk representing honor and courage; 2) a sphere representing unity and global service; 3) a flame representing valor and sacrifice; and 4) water representing healing. Between these objects will be a series of granite insets with engraved poetry and/or statements about war, service, and its meaning for those who served. Mr. Mattheis suggested that a subcommittee be formed from representatives of the Arts Commission, City staff, and community volunteers to judge and select statements from the community. He concluded by noting that his proposal would blend into the existing infrastructure and that none of the current trees, benches, and lights would be removed.

Council Member Land asked what comments had been received from the public meetings. Mr. Mattheis replied that the largest concern was that the different branches of service be recognized and honored. Mr. Land expressed hope that all six branches would be recognized: Army, Airforce, Navy, Marines, Merchant Marines and U.S. Coastguard.

Council Member Hitchcock stated that though she was very pleased with the proposal, she has heard comments from the public about the cost and that the design is non-traditional. She pointed out that many people do not understand the symbolism in abstract design. She asked Mr. Mattheis what reaction he has received from the proposal and whether there is public support for the concept.

Mr. Mattheis responded that more public meetings are scheduled for this week. He noted that the memorial is not for a specific service or era, and thus it needs to have a common denominator that is more intuitive and emotional than figurative and realistic.

Ms. Haynes reported that the Ad Hoc Veterans Advisory Committee was established by the Mayor in April 2000. There are currently 15 members that represent all branches of the military including Disabled American Veterans and concerned community volunteers that have offered to participate in the meetings. The goal of the committee was to create a veterans monument in the space between City Hall and the Carnegie Forum. This space was designated as a memorial to veterans in 1968. A fountain had been built in this area, though it had not been functioning for some time and has since been removed. The committee has decided to expand the project to include all Lodi area veterans past, present, and future; and all branches of the military. The current plaques will be included in the new design, as well as a plaque from World War I that has been anonymously donated.

Ms. Haynes announced that the committee has held public meetings and met with the Lodi Arts Commission which has given "its blessing" on the design. A total of 5,000 fliers were distributed announcing the public meetings. The committee recently received the status of a non-profit foundation, to which Ms. Haynes has been voted as the Chairman. To date it has raised more than \$8,000. Subcommittees were formed and are working on a Veterans Day event. At the event a ground breaking of the Lodi Area All Military Veterans Plaza is scheduled, which will be followed by a free community barbecue.

Ms. Haynes requested that the Council approve the project proposal and appropriate \$450,000 for the project as discussed during budget hearings. She noted that the foundation's goal is to repay the City through donations, in-kind contributions, and sponsorships.

PUBLIC COMMENTS:

- a) Richard Carpiano, Commander of American Legion Post 22, and member of District 11 of California, stated that he would recommend to the Post that they accept the design as presented by Mr. Mattheis tonight. He will also recommend that the Post purchase and donate a MIA/POW flag to be flown along with the American flag. Mr. Carpiano asked that one of the statements in the memorial be "freedom is not free".
- b) Joseph Bacile announced that he fought with the 4th Infantry Division who landed on Utah Beach. He stated that the design proposal is outstanding and urged the Council to move forward.
- c) Harold Kline, 411 N. Lincoln Avenue, Lodi, introduced himself as a member of Post 1968, Veterans of Foreign Wars. He pointed out that every day throughout the country 1,500 veterans are dying.

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- d) Dave Croft stated that he works for the San Joaquin County Veterans Service and is also a member of American Legion Post 22. He pointed out that the Merchant Marines are only considered veterans from WWII. He suggested keeping the memorial limited to the basic five branches of the military.
- e) Charlie Mauch announced that he served in the U.S. Marine Corp., is a Vietnam Veteran, and asked the Council to support the project.
- f) Mary Galvan, representing Disabled American Veterans, stated that veterans in Lodi, Stockton, and Sacramento are very enthusiastic about the project and have pledged financial support if it is approved.
- g) Tony Galvan asked for the Council's support in what he described as a magnificent tribute to veterans.
- h) Steve Jarrett, Vietnam Veteran, member of the Ad Hoc Committee, and Treasurer of the Foundation, stated that he can understand the consternation of spending \$450,000 up front for the memorial; however, he pointed out that Lodi has a history of doing just that (e.g. Hutchins Street Square). He expressed confidence that the City will be paid back. This will be another example of how Lodi is not afraid to invest in its community and provide something of great value that will long be remembered.

Council Member Pennino explained that this is a capital improvement item that should follow the standard progression. It is now in the concept phase, the next steps would be final design, plans and specification preparation, and construction cost estimation. He pointed out that the agenda states "funding not applicable at this time".

Mayor Pro Tempore Nakanishi expressed support of the project noting that there is money in the capital budget, and emphasizing that this is a loan.

Council Member Land expressed support for the project.

City Manager Flynn stated that there was an oversight on the part of staff in preparing the report on this item. They will come back at the next meeting and recommend appropriation of money for the design.

Mayor Mann stated that he is in full agreement with the design and the project. He encouraged the Ad Hoc Committee to continue to showcase it and get public input.

Council Member Hitchcock stated that she would find it difficult to approve spending \$450,000 on any art project at this time because of the greater need for a public safety building; however, she expressed support in providing a loan.

Mr. Jarrett emphasized that the plaza is a City project because it is on City property and has to go through the City bid process. He stated that the committee has done all they can to solicit public input on the project.

MOTION / VOTE:

No action was required.

ANNOUNCEMENT

Council Member Pennino announced that he just received news that San Joaquin County Supervisor Bob Cabral suffered a massive heart attack and died at 7:30 p.m. this evening.

Mayor Mann asked for a moment of silence in memory of Supervisor Cabral.

RECESS

At 9:40 p.m., Mayor Mann called for a recess and the City Council meeting reconvened at 9:50 p.m.

H. REGULAR CALENDAR (Continued)

H-2 "Senior Citizens Vehicle Entrance Fee discount for Lodi Lake"

City Manager Flynn announced that this item is being brought before the Council at the request of the Mayor who suggested that seniors be allowed to enter Lodi Lake during non-peak times at a lesser cost than what is currently provided.

MOTION / VOTE:

The City Council, on motion of Council Member Pennino, Nakanishi second, unanimously adopted Resolution No. 2000-180 approving a 50% discount for seniors on parking fees and passes for Lodi Lake Park during non-peak use days.

H-3 "Approve addition of one Community Improvement Officer I/II and funding for associated office and ancillary equipment (\$56,908)"

Community Development Director Bartlam requested approval to add one additional Community Improvement Officer to his staff. The workload in the department, particularly the Code Enforcement Division, remains quite high. In order to be effective with issues such as substandard housing, dangerous buildings, and miscellaneous zoning violations, more staff is needed. Code Enforcement has been involved in 2,000 cases. Community Development Block Grant (CDBG) and HOME funds in excess of \$2 million have been expended on the east side. The new Charter school opening on Central Avenue and Pine Street is the first public school in Lodi since 1990. Staff has been working with the School District in opening up after school programs at both Lawrence and Heritage schools. \$6 million of street and public infrastructure projects have been built on the east side. With the initiation of the Redevelopment Agency there will be a \$28 million revenue stream targeted towards projects on the east side. The Building Hope in Lodi Housing Program is a constructive partnership with a number of public agencies and private lending institutions to rehabilitate and build new housing on the east side. The requested additional staff member was not in the current budget and will need to be funded from the contingency account.

MOTION:

Council Member Pennino, made a motion, Land second, to adopt Resolution No. 2000-181 approving the addition of one Community Improvement Officer I/II position in the Community Development Department and funding for associated office and equipment costs, totaling \$56,908.

DISCUSSION:

Council Member Hitchcock asked that the motion be amended to include the addition of two Code Enforcement Officers.

Council Member Pennino declined, noting that if staff wishes to add another Code Enforcement Officer in the future they can come back to Council with the request. He recalled that at a previous Council meeting Ms. Hitchcock said that the Council should not be amending recommendations by staff, particularly when they are funding issues.

Council Member Hitchcock countered that the City has funding to allow for the addition of two Code Enforcement Officers and according to what she has heard from the community and seen herself, there is a compelling need for more staff in this area. She commented that Galt has two Code Enforcement Officers and Lodi, being of greater size, should probably have four.

City Manager Flynn stated that there may be a recommendation for additional staff in the future. He explained that adding two Officers at once with one supervisor might be overwhelming.

PUBLIC COMMENTS:

- a) Jane Lea, 1931 Holly Drive, Lodi, spoke in support of adding two additional Code Enforcement Officers. She stated that sewer and water lines on the east side are rusting through creating major health and safety concerns for residents of the area. She asked why CDBG funds are being used to pay off loans on the parking garage instead of being used to rebuild the deteriorated east side.
- b) Joanne Mounce, 437 E. Elm Street, Lodi, stated that more than just one additional Code Enforcement Officer is needed.
- c) Virginia Snyder, 621 E. Lockeford Street, Lodi, suggested that part-time employees be hired to take care of blight issues. She asked how long it will take before money is generated from Redevelopment Agency programs.

Community Development Director Bartlam responded that once Redevelopment Agency projects are in place, tax increments would be received on the next tax roll, dependent on improved property values.

In response to Mayor Mann, Community Improvement Manager Wood reported that cases of raw sewage are responded to immediately. There is a constant problem with dumping trash in alleys and vacant lots. One of the reasons staff is recommending the addition of only one Officer at this time is because the pool of qualified Code Enforcement staff is very limited. He emphasized that it is a law enforcement function and they must understand legal concepts and responsibilities.

In reply to Mayor Mann, Mr. Bartlam stated that staff is discussing developing a master plan in an effort to help resolve the problems of the east side. He commented that it is a broad issue, which they will consider strategically and return to Council with a recommendation. The financial benefits of going through the Redevelopment Agency as a funding mechanism will be quite favorable.

Council Member Hitchcock explained that approving two Officers now would not necessarily mean they would both have to be hired immediately. She again asked that the motion be amended to make a commitment to hire two Code Enforcement Officers.

Council Member Pennino again declined to amend his motion, noting that staff understands the consensus of Council and they can return with another recommendation for additional staff if needed in the future. He objected to allegations that the east side has been neglected. A great deal of resources have been spent over the past six to eight years. Mayor Mann created the Task Force in 1992 and the Council has worked diligently with them as well as with the East Side Improvement Committee.

Mayor Mann asked that staff look at the possibility of adding additional personnel and bring back a recommendation to Council when they determine it necessary.

VOTE:

The above motion carried unanimously.

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Council Member Hitchcock, Mann second, voted to continue with the remainder of the meeting following the 11:00 p.m. hour. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Land, Nakanishi and Mayor Mann
Noes: Council Members – None
Absent: Council Members – Pennino

H. REGULAR CALENDAR (Continued)

H-4 "Extend Exclusive Right to Negotiate Agreement with ProStyle Sports" *formerly E-10*

Deputy City Manager Keeter reported that Council entered into an agreement with ProStyle Sports approximately two years ago. The agreement is slated to expire at the end of this month. Staff has received a letter from ProStyle Sports representatives requesting that the Council extend the agreement for one additional year. ProStyle Sports has paid for an Environmental Impact Report (EIR) which is currently underway. The EIR is scheduled to be completed by April 2001. By extending the agreement, the Council will agree not to negotiate with any other party on the subject property, which is the acreage directly to the east of I-5. In addition, Council will, in effect, demonstrate a good faith effort while the EIR is being completed by the consultants. Ms. Keeter noted that there have been some delays when ProStyle Sports reorganized, and when the City entered into discussions with Cal Pine which made the proponents pause to ascertain whether they wanted to move forward with the EIR due to potential water issues.

Council Member Pennino voiced opposition to extending the lease agreement on the grounds that the Council has never received a business plan from ProStyle Sports.

PUBLIC COMMENTS:

- a) Brad Lange, 1298 W. Jahant Road, Acampo, urged the Council not to extend the agreement. He declared that ProStyle Sports is the wrong project in the wrong place. Mr. Lange suggested a sports center with indoor activities and outside fields of play located in and around the Grape Bowl.
- b) Jack Hamm, 13436 N. Thornton Road, Lodi, spoke on behalf of Lima Ranch, a diversified dairy and farming operation. He claimed that agricultural operations adjacent to the property will be adversely affected and urged the Council to deny the extension.
- c) Diego Olagaray, 19365 Windwood Drive, Woodbridge, spoke on behalf of the Lodi Grapegrowers Association. He stated that this is a land use issue and the ProStyle Sports project contradicts the Council's support of the greenbelt. He asked the Council to deny to the extension.
- d) Bob Johnson, 1311 Midvale Road, Lodi, stated that the Council is obligated to maximize utilization of City property. When the contract was first negotiated, the farmers who leased that land were protected. They were guaranteed a base rate per acre for a period of time. He urged the Council to extend the agreement.

In response to Council Member Pennino, Community Development Director Bartlam reported that the EIR is expected to be completed in April 2001. Public review of the draft will be available just after the first of the year.

Council Member Pennino recalled that two years ago discussion took place, which included the need to look at alternate locations, such as an in-town, downscaled version, possibly using the old Goerhing property.

Mr. Bartlam replied that the EIR does look at an alternative location at I-5 near Manteca. He did not recall that the motion previously considered by Council included looking at a site in Lodi, and explained that for an alternative analysis in the EIR, the project cannot be modified in order to make something else fit.

Council Member Land concurred with Council Member Pennino and stated that he was not in favor of extending the contract.

Council Member Hitchcock pointed out that the Council did not require a business plan in order to go forward with the EIR.

City Attorney Hays explained that the City entered into an exclusive right to negotiate, not a lease. There is a term on the document, which provides that the exclusive right to negotiate exists for two years. ProStyle Sports has fully undertaken their obligations under the agreement and funded the EIR. He warned that by not extending the agreement it may put the City in jeopardy relative to some of the dollars that have been expended by ProStyle Sports.

- e) Ben Goehring, 15405 N. Locust Tree Road, Lodi, stated that he represents 51% of the owners of ProStyle Sports. He reported that they have a preliminary business plan and are awaiting the results of the EIR so they know what obstacles and objections they need to address. He felt it would be very unfair not to extend the agreement considering their financial investment in the pending EIR.

Mayor Mann stated that things are very different now than they were five years ago when the Council first considered ProStyle Sports. Since that time there has been a renewed effort to protect the greenbelt. He expressed frustration at the conduct and sincerity of some of the proponents of the project and is not convinced that the project will move forward once the EIR is completed.

In response to Mayor Mann, Deputy City Manager Keeter stated that the EIR was paid for and will be completed regardless of whether the Council extends the agreement. She reminded the Council that members of the community suggested that judgement on the project be withheld until the EIR is complete, at which time potential impacts, mitigation, and project feasibility could be ascertained.

Referencing eminent domain, Mayor Pro Tempore Nakanishi stated that the land was obtained for a certain purpose and he is not in favor of selling it to a private organization.

MOTION:

Council Member Pennino made a motion, Nakanishi second, to deny the request to extend the Exclusive Right to Negotiate Agreement with ProStyle Sports for a one-year extension.

DISCUSSION:

In reply to Mayor Mann, City Attorney Hays explained that there are certain milestones in the agreement that ProStyle Sports would lose by not extending it, one of which is found in paragraph 8, which indicates that the parties shall be prepared to complete negotiations relative to the property within 120 days of completion of the EIR. By failing to extend the agreement, they lose the comfort that the City is willing to enter into negotiations based upon the EIR. ProStyle Sports may feel that they paid for that. He advised that the safest course for the City to take is to extend the agreement.

Council Member Hitchcock asked if there are any disadvantages to the Council extending the contract.

City Attorney Hays replied that from a legal perspective he did not see any drawbacks.

Council Member Pennino pointed out that there would be nothing to prevent the Council from entering into negotiations once the EIR is completed.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Land, Nakanishi and Pennino
Noes: Council Members – Hitchcock and Mayor Mann
Absent: Council Members – None

H-5 "Creation of Swimming Pool Task Force" *formerly E-12*

Deputy City Manager Keeter reported that at the last Council meeting it was recommended that staff bring back an action item to create a Swimming Pool Task Force. The purpose of the proposed Task Force would be to evaluate the need for a 50-meter swimming pool within the City based on current and future demands including scheduled practices, swim meets, water polo meets, and other future activities. In addition, the Task Force would ascertain the feasibility of the City constructing and operating the pool, reviewing potential sites, determining costs associated with capital construction and ongoing operations of a pool. They would then present Council with a report and recommendation. The proposed Task Force membership would be comprised of representatives from Lodi City Swim Club, Boosters of Boys and Girls Sports (BOBS), Parks and Recreation Commission, parents of swimmers, general public, LUSD Facility Planning, and sports officials.

Patty Steward, Chairman of the Parks and Recreation Commission, spoke on behalf of Commissioners Sasaki, Davis, and Johnson. The commission's highest priority is to finish and improve Lodi Lake, specifically the west side 13 acres. There is concern that implementation of the Swimming Pool Task Force will dilute the commission's priorities. They suggest that the Council meet with members of the LUSD Board and come to an agreement on the use of the pools.

Council Member Pennino confirmed that the west bank of Lodi Lake and the indoor sports facilities are high priorities. He forecasted that the west bank project would be built in 2001-02, the indoor sports center in 2002-03, and the pool in 2003-04.

MOTION:

Council Member Pennino made a motion, Land second, to create the Swimming Pool Task Force to evaluate the feasibility of a City-owned, 50-meter pool and to make the following appointments to the Task Force:

Swimming Pool Task Force

John Griffin	Unspecified Term
Gerald Houtsma	Unspecified Term
Jan Ray	Unspecified Term
Randy Snider	Unspecified Term
Mamie Starr	Unspecified Term
Max Steinheimer	Unspecified Term
Patty Steward	Unspecified Term

PUBLIC COMMENTS:

- a) Dave Elliott, 1290 E. Woodbridge Road, Woodbridge, spoke in favor of a new public pool.
- b) John Johnson, 106 S. Orange Avenue, Lodi, urged the Council to tell LUSD that they must abide by the joint use agreement and let the swimmers use the pool and let basketball players use the gym. He indicated that it is a coordination problem with Tokay High School, not a lack of water space. He suggested that LUSD not be allowed to use City parks until they abide by the agreement.

DISCUSSION:

Council Member Hitchcock stated that the Swimming Pool Task Force should report back to the Parks and Recreation Commission rather than the Council.

Deputy City Manager Keeter reported that she and the City Manager have a meeting scheduled with the Superintendent of LUSD and Mamie Starr to discuss the pool issue. She noted that the Lodi Swim Club has been using the pool recently, though there are still some issues that need to be resolved.

Mayor Mann stated that he attended the Parks and Recreation Commission meeting last night and addressed their concerns. He emphasized that creation of the Task Force is not an attempt to go around them, invade their capital budget, or reshuffle their priorities. If the construction of the pool is recommended and it does not become one of the Parks and Recreation Commission priorities, it should be funded independently of their capital budget.

VOTE:

The above motion carried unanimously.

- H-6 "Adopt resolution approving the Annual Investment Policy and Internal Control Guidelines" *formerly E-3*

In response to Council Member Hitchcock, Finance Director McAthie reported that Government Code Section 53601 requires that the Council annually review and adopt an investment policy. The investment policy is in compliance with state laws governing the investment of local agency funds and provides for internal control guidelines to protect the funds from misappropriation, speculation, and fraud. The policy will be submitted to the Municipal Treasurers Association of the U.S. and Canada for recertification. It is reviewed annually by the City's audit firm. Ms. McAthie introduced Maxine Cadwallader, Deputy Treasurer, noting that she has done most of the work in keeping the policy updated. Ms. McAthie and Ms. Cadwallader are both certified by the California Municipal Treasurers Association and Ms. McAthie serves on the Board as Secretary and also on the Education Committee.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Nakanishi second, unanimously adopted Resolution No. 2000-182 approving the City's Annual Investment Policy and Internal Control Guidelines".

- H-7 "Adopt resolution authorizing the Public Works Director to accept and sign the Master Agreement entitled, 'Administering Agency-State Agreement for Federal Aid Projects' for all Program Supplements to Administering Agency-State Agreement No. 10-5154, updated June 4, 1997, Procedures for Federal Aid Funding of City of Lodi Transportation Projects" *formerly E-7*

In reply to Council Member Hitchcock, Public Works Director Prima commented that the request is for the purpose of streamlining the processing of Federal and Caltrans paperwork to obtain reimbursement.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Pennino second, unanimously adopted Resolution No. 2000-183 authorizing the Public Works Director to accept and sign the Master Agreement entitled, "Administering Agency-State Agreement for Federal Aid Project" for all Program Supplements to Administering Agency-State Agreement No. 10-5154, updated June 4, 1997, Procedures for Federal Aid Funding for City of Lodi Transportation Projects.

- H-8 "Authorize City Manager to execute a professional services agreement with West Yost & Associates for engineering services to assess component failure modes and effects analysis for the White Slough Water Pollution Control Facility; and appropriate \$25,600 for the project" *formerly E-8*

Council Member Hitchcock asked Mr. Prima to explain what steps have been taken to avoid future violations.

Public Works Director Prima reported that after the chlorine incident in January, staff ensured that all systems were working properly and then put instrumentation and maintenance under an ongoing contract. West Yost & Associates has provided the City with a proposal to analyze the alarm and control systems and recommend changes for better redundancy.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Nakanishi second, unanimously authorized the City Manager to execute a professional services agreement with West Yost & Associates for engineering services to conduct an assessment of component reliability and failure effects at the White Slough Water Pollution Control Facility (WSWPCF); and appropriate \$25,600 for the project in accordance with staff recommendation.

I. ORDINANCES

- I-1 Ordinance No. 1695 entitled, "An Ordinance of the Lodi City Council Amending the Official District Map of the City of Lodi and Thereby Rezoning 333 S. Lower Sacramento Road (APN 029-040-04) from C-S, Commercial Shopping and R-1, Single-Family Residential to PD, Planned Development" having been introduced at a regular meeting of the Lodi City Council held September 20, 2000 was brought up for passage on motion of Council Member Pennino, Hitchcock second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Hitchcock, Nakanishi, Pennino and Mayor Mann
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – Land

J. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- John Sutphin, 321 E. Century Boulevard, Lodi, complained of blighted conditions, specifically that of weeds. He was told that the trees on Cherokee Lane would be pruned in September. Four weeks ago there was a fire on Stockton Street in an old non-producing vineyard. Wind took the fire to the fence line of the residences on the east side of the property. He suggested that it could have been prevented if the City had abated the weeds.

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Pennino stated that something needs to be done about the weeds around the old Shell gas station on Beckman Road and Highway 12.

Community Development Director Bartlam reported that staff has made contact with the out of state owners of the property and will follow up on it.

- Council Member Hitchcock commented that the Street Faire was very successful. She stated the Council needs to consider expanding staff within the City and felt that it should be a priority in the next budget. She recommended that Council and staff take advantage of the Lodi Airport for skydiving, which she recently experienced.
- City Manager Flynn announced that Council Member Hitchcock's birthday was October 3, and Council Member Land's birthday is on October 13. The Celebration on Central Avenue event will take place on October 15. A health fair and live entertainment is planned.
- Mayor Mann announced that his youngest daughter is participating in a fundraising effort tomorrow at a gas station near Kettleman Lane and Highway 99. They hope to collect a million pennies and he asked the Council and others to donate their spare pennies to the cause.

Continued October 4, 2000

L. CLOSED SESSION – None

M. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION – None

N. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 12:05 a.m., Thursday, October 5, 2000.

ATTEST:

Susan J. Blackston
City Clerk